

REMARKS

Applicants request favorable reconsideration and allowance of the subject application in view of the preceding amendments and the following remarks.

Drawings

Acceptance of the drawings filed on 24 January 2009 is gratefully acknowledged.

Priority

Acknowledgment of the claim for foreign priority is noted. A certified copy of the priority document PCT/IL03/00375 filed 8 May 2003 will follow under separate cover.

Claims

Claims 55, 57-61, 63, 65, 68-72 and 74 are pending. Claims 56, 62, 64, 66-67, and 73 have been canceled, without prejudice. Claims 55, 58-61, 63, 65, 68, 70, 72 and 74 have been amended.

Applicants acknowledge with gratitude the Examiner's indication of allowability as to claims 59-61 and 70-72. Independent claims 55 and 65 have been rewritten to incorporate limitations of the dependent claims.

While not conceding the appropriateness of the Examiner's rejections of claims 55-58, 62-69, 73 and 74, but merely to advance the prosecution of the present application, amended claims herein are presented for consideration.

Independent claim 55 has been amended to incorporate the limitations of claims 56, 62 and 64. Claims 55, 58-61 and 63 have been amended to recite a "platelet containing fraction" to conform the claims to claim 65. Claim 65 has been amended to incorporate the limitations of claims 66, 67 and 73. Claims 55 and 65 have further been amended to recite "wherein said treating comprises placing the platelets in an atmosphere containing at least about 40% carbon monoxide for at least 10 minutes" to distinguish over Amersi and Brune, as described in more detail below. Support for the time limitation may be found in the specification in Example B on page 15, line 19.

Support for the recitation of “before administration to a subject” in claims 59 and 70 may be found on page 13, lines 21-23 of the specification. Support for the recitation of “at least 30 mM” of bicarbonate in claims 63 and 74 may be found on page 15, line 16; page 19, lines 20-21; and page 22, line 2 of the specification.

The pending claims are submitted to be allowable. No new matter has been added and entry of this amendment is respectfully requested.

Applicants maintain all rights to any subject matter reflected in the canceled claims, which may be claimed in subsequent applications.

35 USC §102 Rejection over Amersi et al.

The Examiner’s rejection of claim 55 under 102(b) as clearly anticipated by Amersi et al. is respectfully traversed. Amersi et al. teaches perfusing livers ex vivo with blood saturated with air containing 300 ppm carbon monoxide, **which equals 0.03% carbon monoxide** of total gas molecules in atmosphere. This contrasts with applicants’ method as set forth in amended claims 55 and 65 herein, which call for placing the platelet-containing fraction in an atmosphere comprising carbon monoxide at a concentration in the range of **at least 40% and ranges from about 40% to about 100%** of total gas molecules in atmosphere. The amount of carbon monoxide that Amersi et al. uses, 0.03%, is insufficient to inhibit pathogen growth in a platelet-containing fraction, as claimed herein. Accordingly, Amersi does not disclose or suggest the claimed method for treatment of platelets and withdrawal of the Section 102(b) rejection of claim 55 is requested.

35 USC §102 Rejection over Brune et al.

The Section 102(b) rejection of claims 55-58, 62-69, 73 and 74 over Brune et al. is respectfully traversed. The Examiner argues that Brune et al. discloses a method of gassing PRP or washed platelets resuspended in a bicarbonate buffer with pure CO. The patent law is settled that a rejection under 35 USC §102 is proper only if a single reference discloses every single element of an invention as claimed. Brune et al. does not disclose or suggest a method for inhibiting pathogen growth in a platelet-containing fraction, or even recognize or appreciate that treatment of a platelet-containing fraction with carbon monoxide will inhibit pathogen growth. In fact, Brune et al. teaches away from a method of inhibiting


pathogen growth in a platelet-containing fraction, because, at most, Brune teaches treating PRP by gassing with CO for 2 minutes (see Figs. 1, 2, 8 and 9), which is insufficient time to inhibit pathogen growth. In contrast, applicants claim treatment with CO for at least 10 minutes to inhibit pathogen growth. Accordingly, Brune does not disclose or suggest the claimed method for treatment of a platelet-containing fraction and withdrawal of the Section 102(b) rejection is requested.

The claims are submitted to be in condition for allowance. Reconsideration and issuance of a notice of allowance on all pending claims is respectfully solicited.

Applicants have made a good faith effort to address each point made by the Examiner, and amended the claims in order to place the application in condition for allowance. Should the Examiner find any deficiency in this amendment or in the application, or should the Examiner believe, for any reason, that a conversation with applicants' attorney may further the allowance and issuance of this application, the Examiner is kindly requested to contact the undersigned.

Respectfully submitted,

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Date



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